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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

PR Docket No. 93-61

In the Matter of)
)
Amendment of Part 90 of the)
Commission's Rules To Adopt)
Regulations for Automatic Vehicle)
Monitoring Systems)

DOCKET FILE COPY ORIGINAL

To: The Commission

**CONSOLIDATED REPLY TO OPPOSITIONS TO
PETITION FOR RECONSIDERATION**

Teletrac License, Inc. ("Teletrac"), by its attorneys, hereby replies to the oppositions to its petition for reconsideration of the Commission's Order on Reconsideration ("*LMS Reconsideration Order*") in the above-captioned proceeding.

I. THE TWO-KILOMETER RULE SHOULD BE MODIFIED.

In its petition, Teletrac identified limited circumstances in which modification of the Commission's "two-kilometer" rule would promote the public interest without in any way thwarting the rule's underlying purpose. In all of the identified circumstances, allowing grandfathered multilateration LMS licensees to relocate sites beyond a two kilometer radius will enhance the efficiency of their systems. In none of the circumstances will such relocation undermine the objective of preserving auctionable spectrum for the Commission's competitive bidding processes.

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Two parties — Metricom, Inc. (“Metricom”) and the Part 15 Coalition (“the Coalition”) — oppose modifying the rules to permit relocation in these limited circumstances. Metricom bases its opposition not on the merits of Teletrac’s petition (which it ignores) but solely on the grounds that the request for reconsideration is “repetitious” and “only a rehash of arguments raised previously.”^{1/} In fact, however, Teletrac’s petition raises new arguments and seeks relief different from the modifications requested previously.

In the *LMS Reconsideration Order*, the Commission rejected a joint request by several grandfathered multilateration LMS licensees to extend the two-kilometer limit to a ten-mile radius, based on the unavailability and unsuitability of many sites and the fact that “site surveys and negotiations are time consuming.”^{2/} In its current petition for reconsideration, Teletrac seeks a more narrowly tailored modification of the two-kilometer rule, based on its more recent experience “in preparing to build out its system.”^{3/} Specifically, it seeks exceptions allowing relocation beyond two kilometers only in particular circumstances where there are identifiable public benefits and minimal likelihood that auctionable spectrum will be reduced. Moreover, Teletrac’s petition also seeks reconsideration on the grounds that the Commission’s reliance on its CMRS site relocation rule as the basis for denying the previous request for modification of the two-kilometer rule was flawed, insofar as grandfathered multilateration LMS operations are readily distinguishable from site-based CMRS operations.^{4/}

^{1/} Metricom Opposition at 3.

^{2/} *LMS Reconsideration Order*, ¶ 38.

^{3/} Teletrac Petition at 3.

^{4/} *Id.* at 8-9.

As Metricom admits, the rules do not, in any event, bar the Commission from considering second petitions for reconsideration of the same rule but only provide that when the Commission refuses to modify a particular provision on reconsideration, a second petition for reconsideration “may” be dismissed as repetitious. In the present circumstances, where a petition presents new arguments for different relief based on new experience, it would be inappropriate and unwarranted to dismiss the petition without even reaching the merits.

On the merits, only the Coalition opposes Teletrac’s proposed modifications to the two-kilometer rule, and its arguments miss the mark. First, the Coalition dismisses as irrelevant Teletrac’s contention that modifying the two-kilometer rule is critical to the efficiency and effectiveness of grandfathered multilateration LMS systems. According to the Coalition, this contention is “premised on a faulty understanding of purpose [*sic*] underlying the LMS grandfathering rules,” which, in its view, “were not intended to optimize the service potential of these systems.”^{5/} The Coalition offers no support for this remarkable statement, and, of course, none exists.

As the Commission has itself emphasized, its entire LMS spectrum plan, including its rules governing grandfathered multilateration LMS licensees, was “designed to accommodate these service providers’ requirements to the extent possible.”^{6/} to enable LMS systems to “play an integral role in the development and implementation of a variety of advanced transportation-related services.”^{7/} Teletrac, in its petition, showed that limited modification of

^{5/} Coalition Opposition at 3.

^{6/} *LMS Reconsideration Order*, ¶ 4

^{7/} *Id.*, ¶ 3.

the two-kilometer rule was necessary to improving signal density and continuity of service and that such improved density and continuity “is critical if Teletrac’s grandfathered multilateration LMS system is to maximize its effectiveness in combating auto theft, facilitating recovery of stolen vehicles and assisting law enforcement officers to pinpoint contraband and drug shipments in surveillance operations.”⁸ The Los Angeles County Sheriff’s Department confirms — and the Coalition does not dispute — that this is the case.⁹ In these circumstances, a rigid two-kilometer rule will frustrate the Commission’s policy objectives, especially where exceptions can be carved out without unduly constraining auctionable spectrum.

The Coalition contends, again without support, that *any* modification of the two-kilometer rule *necessarily* reduces auctionable spectrum: “[I]t stands to reason that the more generous the Commission’s grandfathering provisions are, the less successful its LMS auctions will be.”¹⁰ But Teletrac’s petition specifically showed that this was not the case, and that, in many cases, its proposed modifications would enable multilateration LMS licensees to relocate sites in an efficient manner that actually *reduces* the service area contour of its collective sites in a particular market, thereby *enhancing* the availability of auctionable spectrum.¹¹ In other

⁸/ Teletrac Petition at 6-7.

⁹/ See Statement of the Los Angeles County Sheriff’s Department, appended as Attachment A to this Reply.

¹⁰/ Coalition Opposition at 3.

¹¹/ See, e.g., Teletrac Petition at 6.

cases, the proposed modifications will allow the use of sites within the existing service area contour that would in any event be of little or no value to bidders ¹²

In sum, neither Metricom nor the Coalition offers any sound reasons not to adopt Teletrac's proposed modifications. Metricom wrongly urges the Commission simply not to consider the merits of the proposals. The Coalition wrongly contends that the proposals will provide no public benefits and will reduce auctionable spectrum, when precisely the opposite is true. The proposals should be adopted.

II. THE "SAFE HARBOR" RULE SHOULD BE CLARIFIED.

Teletrac asked the Commission to modify its "safe harbor" rule, under which Part 15 devices are presumed not to cause interference to multilateration LMS licensees operating in the same spectrum band, provided that such devices comply with Part 15 rules. It may be reasonable for the Commission to determine that compliance with the specific set of Part 15 rules currently in place will provide sufficient protection against interference to warrant such a presumption. But the Commission obviously cannot determine in advance that the presumption will remain reasonable no matter what changes are made to the Part 15 rules. Therefore, Teletrac asked that the rule make clear that the "safe harbor" applies only to devices that comply with and are authorized under the Part 15 rules that are now in effect.

Two parties — SpectraLink Corporation ("SpectraLink") and the Coalition — contend that the proposed clarification is unnecessary because the only currently proposed changes to Part 15 rules that might affect grandfathered multilateration LMS licensees are likely only to

¹²/ See, e.g., *id.* at 10.

reduce potential interference. Specifically, the Commission has proposed changes to its rules that would allow frequency-hopping spread spectrum devices to reduce the number of frequencies that they hop among. According to the Coalition, “the proposed reduction in the number of frequencies required to be used by frequency hopping Part 15 technologies would, if anything, reduce, rather than increase, the spectral occupancy of spread spectrum frequency hoppers.”^{13/} But it does not follow from this tautology that *interference* will necessarily be reduced. If, as SpectraLink maintains, spread spectrum manufacturers uniformly use the reduced number of required frequencies “to avoid the LMS sub-bands and ensure the uninterrupted and interference-free operation of their devices,”^{14/} potential interference will, indeed, be reduced. But the proposed rules do not require such avoidance of LMS sub-bands. If most or all of the reduced number of frequencies used by a spread spectrum user were within rather than outside the multilateration LMS sub-bands, the effect would be to *increase* potential interference.

Thus, while the Coalition correctly points out that “[t]here is no basis to assume . . . that the changes in the spread spectrum rules proposed in the *Spread Spectrum NPRM* should in any manner increase the amount of interference from Part 15 technologies,”^{15/} there is also no basis for assuming that the changes — or any other changes that might ever be made in the Part 15 rules — will *not* result in increased and excessive interference. Yet that is

^{13/} Coalition Opposition at 2.

^{14/} SpectraLink Reply at 3 (emphasis added)

^{15/} Coalition Opposition at 2.

precisely what the current “safe harbor” rule might be read to presume.^{16/} If the Commission intended its presumption to apply not only so long as devices comply with the current Part 15 rules but so long as they comply with any Part 15 rules that might ever exist, there simply is no rational basis for such a presumption. In that case, the presumption should be reconsidered and rescinded or modified. If, on the other hand, the “safe harbor” represents simply a determination by the Commission that compliance with the *currently existing* Part 15 rules can safely be presumed not to cause undue interference, then the Commission should modify the language of the “safe harbor” rule to clarify that the presumption applies only to devices that comply with the existing rules.

SpectraLink proposes that even if the Commission agrees to limit the applicability of its presumption in the event of Part 15 rule changes, it should retain the presumption for Part 15 frequency hopping devices “that utilize fewer than 50 hopping channels, are otherwise consistent with the Part 15 rules, *and do not utilize spectrum designated for multilateration LMS operation.*”^{17/} Teletrac would not oppose such a provision. A presumption of non-interference is rational and warranted for frequency hopping Part 15 users that avoid the multilateration LMS bands altogether, whether by choice or because, as Teletrac has proposed in the Spread Spectrum rulemaking, they are required to do so. Nevertheless, this should be an exception to the general rule that the presumption of non-interference applies only to devices that comply with the current Part 15 rules

^{16/} Indeed, Metricom appears to believe that the current rule does grandfather any Part 15 device, regardless of future changes in Part 15 rules. *See* Metricom Opposition at 7-8.

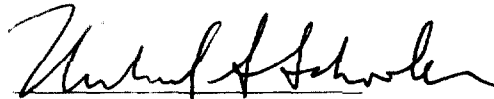
^{17/} SpectraLink Reply at 3 (emphasis added)

CONCLUSION

For the foregoing reasons, and for the reasons set forth in Teletrac's petition for reconsideration, the petition should be granted

Respectfully submitted.

TELETRAC LICENSE, INC.

A handwritten signature in black ink, appearing to read 'Werner K. Hartenberger', written over a horizontal line.

Werner K. Hartenberger

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CERTIFICATE OF SERVICE

I, Ruby Brown, hereby certify that I have on this 18th day of July 1966, served a true copy of the foregoing "Consolidated Reply to Oppositions to Petition for Reconsideration" to the following by first class United States mail, postage prepaid:

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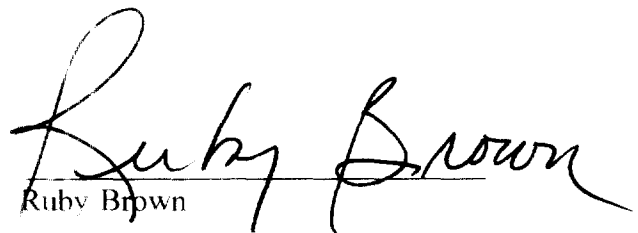
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ATTACHMENT A

**Before the
FEDERAL COMMUNICATIONS COMMISSION
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STATEMENT OF THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

The Los Angeles County Sheriff's Department respectfully submits this statement in support of Teletrac License, Inc.'s ("Teletrac") request for reconsideration of the 2-kilometer site relocation rule for multilateration location and monitoring services ("LMS"). Teletrac's multilateration LMS system would enable law enforcement officials and private citizens to combat auto theft and to recover stolen vehicles using highly innovative and technologically advanced wireless location and tracking. Without relief from the 2-kilometer rule, Teletrac will be unable to provide these essential products and services to law enforcement agencies in some of the most affected urban environments in the country.

Teletrac's multilateration LMS system provides law enforcement agencies with a critical high-technology tool in preventing and detecting property and drug-related crimes. Vehicle theft is a serious problem in the United States today. According to the International Association of Auto Theft Investigators ("IAATI"), over 1.5 million thefts of motor vehicles occurred in the United States during 1994. These offenses comprised 13 percent of all property crimes. During 1994, law enforcement agencies nationwide made an estimated 200,200 arrests for motor vehicle

theft. The need for sophisticated surveillance and detection technologies is becoming increasingly critical to the capture and interdiction of illegal drug shipments and other contraband.

Deployment of Teletrac's wireless tracking and surveillance system in cooperation with the Nation's law enforcement agencies thus will be crucial to combat such crimes.

The Commission's decision in *Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, PR Docket No. 93-61, FCC 96-115 (released March 21, 1996), however, requires that grandfathered LMS providers, in modifying their applications to comply with the new band plan, locate an alternate site no more than 2 kilometers from the site specified in their original license. Failure to exempt grandfathered multilateration LMS licensees from the two-kilometer rule to improve signal density and continuity of service in urban environments will hamper our agency's ability to obtain seamless coverage while tracking stolen vehicles and conducting surveillance of animate and inanimate objects in congested "urban canyons" and "spectrum gaps." Allowing Teletrac relief from the two kilometer site relocation rule is, therefore, critical to the realization of the public interest benefits of wireless LMS stolen vehicle recovery and auto theft prevention.

Teletrac's ability to offer automated, reliable and timely service makes its LMS system unique among stolen vehicle recovery methods available today. Unlike other anti-auto theft technologies that require a subscriber to report a vehicle stolen to begin the tracking process, Teletrac's LMS service has the capability automatically to begin tracking the location of a vehicle. As a result, in 1995, Teletrac-equipped vehicles were recovered 70 percent of the time within one hour of being stolen, with an overall recovery rate of over 90 percent.

Accordingly, the Los Angeles County Sheriff's Department urges the Commission to grant Teletrac's request for relief from the two kilometer site relocation rule. Grant of the relief requested is in the public interest in light of the unique circumstances of Teletrac's LMS system, the highly innovative technological nature of the wireless services Teletrac will provide and the important public safety goals that will be advanced by the products and services Teletrac offers.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 31, 1996.

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Los Angeles County Sheriff's Department